

**PROFFER STATEMENT  
CROSS CREEK INVESTMENTS, LLC  
REZN07-SC-007  
May 3, 2007  
Revised June 22, 2007  
Revised August 20, 2007  
Revised October 4, 2007**

**I. GENERAL PROVISIONS**

1. This Proffer Statement is submitted pursuant to the authority of the Code of Virginia and the Fauquier County Zoning Ordinance (“Ordinance”) by the Owner and the Applicant of the area of real Property containing approximately 8.455 acres (PIN#s 7906-72-6542, 7906-72-6341, 7906-72-7276, 7906-72-8385, 7906-82-3462, and 7906-82-3462) located in the Scott Magisterial District, Fauquier County, Virginia (“the Rezoned Property”) which is described and referenced in the referenced rezoning application and materials filed with Fauquier County. Further, the Owner and the Applicant (“Applicant”), their successors and assigns, hereby proffer that in the event that the Board of Supervisors of Fauquier County (“Board”) approves the subject application to rezone the Property from the R-1 District to the C-2 District the development of the Property will be in accord with the regulations of the C-2 District and the proffers contained herein.

2. In the event the above referenced rezoning is not granted as applied for by the Applicant, these proffers shall be deemed withdrawn and shall be null and void. If this application is denied by the Board, but in the event an appeal is for any reason thereafter remanded to the Board for reconsideration by a court of competent jurisdiction, then these proffers shall be deemed withdrawn unless the Applicant shall affirmatively readopt all or any portion hereof, in writing specifically for that purpose.

3. The headings of the proffers set forth below have been prepared for convenience or reference only and shall not control or affect the meaning or be taken as an interpretation of any provision of the proffers.

4. The term “Applicant” as referenced herein shall include within its meaning the present and future owners, heirs, assigns, and successors in interest.

5. Development of the Rezoned Property shall be consistent with the Conceptual Development Plan/Special Exception Plat prepared by Patton Harris Rust & Associates, PC, (“PHRA”) dated May 23, 2007, (the “CDP/SE Plat”), and with the “Cross Creek New Baltimore Architectural Elevations and Landscaping Exhibits,”

prepared by Angler Development, dated June 27, 2007, (the "Exhibits") as provided herein. The CDP/SE Plat depicts the area of the Property to be rezoned.

## **II. LAND USE**

1. The primary uses on the Rezoned Property may include any of the following:

- a. offices (professional and medical),
- b. financial institutions without drive-thru,
- c. eating establishments without drive-thru,
- d. convenience food store,
- e. dry cleaners
- f. other related neighborhood retail uses.

2. The following commercial uses shall be prohibited on the subject Rezoned Property:

- a. Hotel, motel
- b. Technical school, outdoor
- c. All institutional uses (Category 6)
- d. Firing range, baseball and archery ranges
- e. Travel trailer park
- f. Golf driving range
- g. Miniature golf
- h. Private clubs
- i. Kennel/animal shelter
- j. Bowling Alley
- k. Skating rink
- l. Dance hall
- m. Conference center
- n. Recycling center
- o. Funeral home
- p. Drive through
- q. Carpentry, plumbing electrical, printing, welding shops
- r. All motor vehicle related Uses (Category 14)
- s. All wholesaling and processes uses (Category 15)
- t. All limited industrial uses (Category 16)
- u. All general industrial uses (Category 17)
- v. All transportation uses (Category 21)

3. The Rezoned Property shall be developed in general conformance with the CDP/SE Plat, and the Exhibits. Changes may be made to the shopping center layout within the Rezoned Property provide that the revised layout is consistent with the following limitations, and all other applicable requirements and restrictions

- a. The Applicant may construct not more than 45,000 gross square feet of structures on the Rezoned Property, and shall construct not fewer than four buildings along said frontage, and there shall be not less than seventy feet of separation between each such building.
- b. No building on Route 600 shall exceed 12,000 gross square feet in size. One building along Route 600 may be constructed such that pedestrian and vehicular access fronts on that Route, provided that this shall not be deemed to authorize access to Route 600 other than as shown on the CDP/SE Plat.
- c. No building within the rezoned area shall exceed 35 feet in height.
- d. Buildings and parking shall be located no closer to Route 600 than shown on the CDP/SE Plat, and no more than one building shall have a service drive or other pavement between the building and Route 600.

### **III. ARCHITECTURAL/SIGNAGE/LIGHTING/LANDSCAPING/TRAIL**

1. The architectural design, style and materials used in construction of structures on the Rezoned Property shall be generally consistent with the architectural features illustrated in the Exhibits.
2. Design for buildings along Route 600 to include gable roofs, roofs, strong brick elements, elements that break larger buildings visually into smaller pieces and details on the facades facing Route 600 that are more suggestive of fronts than rears of buildings.
3. No signs shall be allowed on the rear of buildings facing Route 600 or on the rear of other retail buildings with visibility from Route 600 (other than markers for businesses/addresses on rear doors and similar directional signage) unless the structures are redesigned with Route 600 as a primary customer entrance. No signage shall be located on the face of the building facing Route 600, unless a principal customer entrance is located on such face.
4. All permitted freestanding signs along Route 600 frontage shall be of monument style, not greater than eight feet in height.
5. Amendments to the sign package may be made from time to time to accommodate specific tenants or company logo, provided such changes are coordinated with the overall design concept.
6. Freestanding exterior lighting shall consist of uniform material, style and color throughout the Rezoned Property.

7. Landscaping along Route 600 shall be generally consistent with the Exhibits.
8. Applicant shall provide a 6-foot asphalt trail along the Route 600 frontage, with connections into the Center.

## **TRANSPORTATION**

9. Applicant shall construct commercial entrance and full frontage improvements on Route 600 at its intersection with Cross Creek Drive, including a five-foot sidewalk, and right turn and left-turn lanes into the Rezoned Property, in conformance with the engineering plans and design standards set forth on the Cross Creek Infrastructure Plan (SPMA 05-SC-001) prepared by PHR&A approved by Fauquier County June 5, 2007, incorporated herein by reference. Such improvements shall be completed prior to the issuance of the first occupancy permit for the development of the Rezoned Property.

10. “Completed” or “completion” of transportation improvements, for the purposes of these Conditions, shall mean that the improvements have been opened for use by the public, but have not yet been final paved and/or accepted by VDOT for inclusion in the State System of Secondary Roads.

11. Applicant shall, if requested by VDOT, install signage for a four-way stop at the intersection of Route 600 and Riley Road prior to the issuance of an occupancy permit for uses on the Property.

12. Applicant shall improve the Kelly Road/Route 600 intersection consistently with the road work illustrated on Exhibits A and B attached hereto, dated September 7, 2007, and included herein by reference. It is acknowledged that these improvements will require the Applicant to obtain additional right-of-way from the adjacent parcel identified as PIN 7906-72-5027. Applicant shall use its best efforts to acquire the necessary right-of-way by dedication or at a commercially reasonable price. If, within 90 days following approval of the subject rezoning, Applicant has not been successful in reaching agreement with the Property Owner for the acquisition of the aforesaid right-of-way, Applicant may thereafter petition Fauquier County, in writing, to exercise its powers of quick take eminent domain as necessary to acquire this right-of-way. Applicant shall be responsible for all of the County’s direct costs associated with such acquisition. If, however, Fauquier County elects not to seek the right-of-way within 90 days from Applicant’s request therefor, then Applicant shall be relieved of the obligation to make such improvements.

**[SIGNATURES APPEAR ON THE FOLLOWING PAGE]**

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Cross Creek Investments, LLC  
Owner/Applicant  
Marsha Stumpo, Managing Member

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Date